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Office the same occupied by Judge Horn, on St. Clair street. April 28, 1858.

LAW CARD.

J. TEVIS.

SIMRALL & TEVIS,
Counselors and Attorneys at Law,
LOUISVILLE, KY.

Office on Jefferson Street, opposite Court House. April 23, 1858—ly.

FRANKLIN GORIN. A. M. GAZLAY.

GORIN & GAZLAY,
Attorneys and Counselors at Law,
LOUISVILLE, KY.

REFERENCES.

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Sept. 9, 1857—ly.

FRANK BEDFORD,
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VERSAILLES, KENTUCKY.

Dec. 1, 1856—ly.

ROBT J. BRECKINRIDGE,
Attorney and Counselor at Law,
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OFFICE on Shortstreet between Limestone and Upper streets. [May 23, 1856—ly.]

THOMAS A. MARSHALL

HAVING removed to Frankfort and resumed the practice of Law, will attend punctually to such cases as may be entrusted to him in the Court of Appeals of Kentucky, and to such singular cases as may be in other Courts conveniently accessible. He will also give opinions and advice in writing, upon cases stated in writing, or on records presented to him. He will promptly attend to all communications relating to the business above mentioned, and may at all times, except when absent on business, be found in Frankfort.

March 30, 1857—ly.

S. T. WALL. JOHN W. FINNELL.

WALL & FINNELL,
ATTORNEYS AT LAW,
COVINGTON, KY.

OFFICE, THIRD STREET, OPPOSITE SOUTH END CITY HALL, W. & F. PRICE in the Courts of Kenton, Campbell, Grant, Boone, and Nicholas, and the Court of Appeals, Frankfort. May 5, 1856—ly.

M. D. M'HENRY. W. H. M'HENRY.

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PROPOSE to practice in the various Courts of Polk county, and in the Supreme Court of Iowa, and the United States District Court.

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THE COMMONWEALTH.

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THOMAS M. GREEN, Editor.

FRIDAY, :::::::::::::: OCTOBER 22, 1858.

ELDER W. T. MOORE will deliver another discourse to night. Subject "The Conversion of the Philippien Jailer."

Our Circuit Judge vs. the Code of Practice.

Most of our readers have heard of Hon. Elijah F. Nuttall, Judge of this Judicial District, and those who have read our comments upon his opinion in the case of Hardesty, for killing Grubb, will hardly be surprised at anything which he may take it into his head to do in his character as Judge of the laws of the land. But although we do not expect startling any one by publishing a new eccentricity on the part of this very learned and able exponent of the law, we deem it our duty to the lawyers of the State to inform them that the Code of Practice, to which they have long been accustomed to refer, is not esteemed as sound law by at least one astute legal functionary in Kentucky.

The Grand Jury of Franklin county at a former term found an indictment of *manslaughter* against one SHINDLEBOWER for killing a man named MANLY. The case was tried at the term of our Court which has just adjourned, before the Hon. Elijah F. Nuttall. The proof introduced by the Commonwealth was such as satisfied every one who heard it that the accused was guilty of the crime of *murder*, committed in a cruel and inhuman manner, such as the feelings of every man revolt at. When the testimony had been closed on both sides the Judge suggested that the *accused* was guilty of *murder or nothing*; and, thereupon, the Attorney for the Commonwealth moved the Court to discharge the jury in the present trial, and re-submit the case to the Grand Jury, which was at that moment in session in an upper room of the Court House. This motion was founded upon the following section of the Criminal Code:

"§ 230. If, during the trial, the court shall be of opinion that the facts proved constitute an offense of a higher nature than that charged in the indictment, it may direct the jury to be discharged, and all proceeding to be suspended, until the case can be re-submitted to a grand jury, and may order the defendant to be committed, or admit him to bail, to answer any new indictment which may be found against him for the highest offense. If an indictment is not found for the higher offense before the next grand jury is discharged, the court must proceed to try the defendant on the original indictment."

This motion was overruled by Judge Nuttall, upon the ground that the provision of the Code was unconstitutional, in that the prisoner had been put in jeopardy in the present trial and could not be so placed again by another trial, upon another indictment, for the same offense. The prisoner's counsel then asked the following instruction:

"The court instructed the jury that if they believe the evidence in the case they cannot find the defendant guilty of *manslaughter*."

This instruction was based upon the idea that, as the evidence showed the prisoner guilty of *murder*, the jury could not find him guilty of *manslaughter*.

The Attorney for the Commonwealth called the attention of the Court to the fact that if the jury were allowed to find a verdict of *not guilty* upon this indictment, it would operate as a bar to a prosecution for every other degree of the offense, under the *Constitutional provision*, and the 177th section of the Code of Practice, which reads as follows:

"§ 177. Where an offense consists of different degrees, a conviction, or *acquittal*, by judgment upon a verdict, shall be a bar to another prosecution for the offense in *any of its degrees*."

The Attorney for the Commonwealth insisted, further, that the proof of the highest degree of the offense did, at *Common Law*, authorize the jury to find that charged in the indictment, though a lower degree of the offense, and that the Common Law was re-enacted by the Criminal Code, in sec. 261, which reads as follows:

"§ 261. When the proof shows the defendant to be guilty of a higher degree of the offense than is charged in the indictment, the jury shall find him guilty of the degree charged in the indictment."

Notwithstanding that the law is so clear and emphatic upon this point, Judge Nuttall gave the instruction asked for by the counsel of the prisoner, and directed the jury to find a verdict of "*not guilty*," which they accordingly did without retiring from the box. Whereupon he had the Grand Jury brought before him, and re-submitted the case to them. They soon afterward returned into court an indictment for *murder*, to which, in view of the *Constitutional provision* and the 177th section of the Criminal Code, the Attorney for the Commonwealth entered a *nolle prosequi*.

Thus ended the *farce*, which always follows the *tragedy*. Here is an instance where a man was acquitted of *manslaughter* because the Commonwealth proved him guilty of *murder*. Here is, in short, an instance where a man whom the Judge and the jury believed to be guilty of *murder*, was, by reason of the incredible stupidity of the Judge, allowed to escape punishment of any kind, and set loose upon society, encouraged by his acquittal to renew his outrages. No Judge in Kentucky, we venture to say, or in the civilized world, except Judge Nuttall, would have been guilty of such an arrant and inexorable blunder, such a disgusting disregard of the law and of common sense and common decency.—How long will the people of this district be compelled to submit to the foolish judgments of such an ignorant Judge? Is there no way of ridding the Judiciary of the country of such a functionary? Will not Judge Nuttall have the decency to resign his office, when he finds that every man, woman, and child, in his district are disgusted with his ignorance, his indolence, and his prejudices?

Judge Nuttall does not pretend to decide according to *law*, which he is "sworn truly to execute and administer." He has *overruled*, as he facetiously says, the Code of Practice, as well as every standard work upon the various branches of the law, wherever they come in collision with his crude and untrained notions of the law, or, rather, his prejudices in particular cases. Like necessity, which induced a majority of the voters in this district to elect him, he knows no law. He has often boasted that he never reads law, and persists in substituting his stupid notions of law in a district, whose people are heartily sick and disgusted with him and his notions. The case described by us above is only one of a dozen

which he has decided at the present term in a manner quite as contrary to law and common sense, and we shall give the facts in some of the others hereafter. We sincerely wish it may be possible to convince Judge Nuttall that he has not the sense, understanding, or education, requisite for the discharge of the duties of the office he disgraces, and that the cause of good order, justice, and common decency, requires him to resign and let some one hold the office who is competent to understand and who will have the patience and industry to study before he decides a case.

LIBERIA.

Opinion of the Board of Directors of the Kentucky Colonization Society of Liberia.

A meeting of the Board of Directors of the Kentucky Colonization Society the subject of the report of Rev. A. M. COWAN, Agent of the Society, of his visit to examine into the social, moral, and political condition of Liberia, was fully discussed. The following resolutions were adopted and ordered to be signed by the officers of the Board, and be printed as the expressed sentiments of this Board of the Liberian Enterprise:

The Rev. A. M. Cowan, agent of the Kentucky Colonization Society, having, at the request of the society, visited Liberia, in Africa, and having reported in extended form, the result of his observations, it seems proper that the Directors of said Society should, after having carefully examined that report, make some public announcement of their conclusions.

They have the most entire confidence in the perfect candor and truthfulness of all the statements of facts contained in said report, and the general propriety of the inferences, drawn from the facts stated,—and value of suggestions for the future government of those interested in Liberia.

The report leaves no doubt on our minds that there are difficulties in the way of the further progress of Liberia, and abuses in its past management, hitherto unknown to us, and much to be lamented by the friends of the cause of African Colonization; yet, upon a full survey of all the circumstances, there is every encouragement to hope that by continued effort, and greater watchfulness on the part of those friends, these difficulties and abuses will be reformed. The history of Colonies, both on this continent and elsewhere, show that drawbacks and discouragements are to be expected in their early history.

The circumstances surrounding Liberia and its people make it reasonable to look for their extinction in her case.

The report is especially valuable and encouraging to the friends of African Colonization in the entire refutation of charges made against the people and government of Liberia; that they were relapsing into barbarism, and conniving at the slave trade, if not more directly concerned with it—charges made by designing men, who are enemies to this cause from base motives, or reckless in making serious charges upon insufficient evidence.

Without enlarging upon the topics here more touched upon, the undersigned would, on these grounds, call upon all the friends of the cause, both in this State and elsewhere, to be true to it, and not to abandon it upon such slight discouragements.

BEN. MONROE, President.
JACOB SWIGET,
ORLANDO BROWN,
THO. S. PAGE,
JAMES HARLAN.

HENRY WINGATE, Secretary.
FRANKFORT, Oct. 5, 1858.

J. G. BENNETT FOR CONGRESS.—The Buchanan party in the Eighth District of New York are talking of running Bennett, of the *Herald*, for Congressman. The President appears to be throwing his influence in Jenny's favor. The nominating Convention, just for fun, we suppose, gave him a plurality of votes, but being unable to agree, adjourned until Wednesday. The *Times* fears they are only making believe, on purpose to tantalize him, and adds:

"We sincerely hope they will nominate poor Bennett, though it would be a dubious compliment to Mr. Buchanan. But all the Government officers who are members of the Convention, including Mr. Butterworth, the Superintendent of the Assay Office, it is said, gave their votes for Bennett."

THE WAR IN MEXICO.—Civil war in Mexico has produced monstrous disasters. In brief they may be summed up as follows: The dissolution and abandonment of twenty or thirty towns; the banishment from their homes of at least 200,000 persons; the abandonment of hundreds of haciendas; the complete stagnation of all branches of trade and industry; the outraging of many females by the rabble soldiery; the useless employment of 50,000 persons in keeping up civil war, and their consequent demoralization; the sacrifice of \$100,000,000 in money, animals, food, clothing, grain, &c., taken by force for the maintenance of the civil war, and in the property actually destroyed in consequence of these feuds.

SOUTH CAROLINA.—All the present members of the House of Representatives from South Carolina, are re-elected, with the exception of Speaker Orr, who declined running. The new members (all Democrats and chosen without opposition,) are John McQueen, W. Porcher Miles, Lawrence M. Keitt, Milledge L. Bonham, John D. Ashmore and William W. Boyce.

GOV. DENVER.—Gov. Denver arrived at St. Louis on Saturday evening from Kansas. The Missouri *Republican* says he does not contemplate returning to the Territory again, and that the Territorial Secretary will perform the duties of Governor, until the President fills the vacancy.

Prof. Parker Cleveland, the eminent chemist and mineralogist of Bowdoin College, died on the 15th inst., aged 70. He was no less remarkable for his scientific research than his eccentricity and simplicity. Whenever a thunder storm arose he invariably retreated to his cellar, although his house was covered with a perfect net work of lightning rods; and notwithstanding the earnest entreaties of his friends in Boston, he never visited them, not having the courage to take passage in a railroad car.

The Democratic party must submit to these periodical purgations.—*Wash. Union.*

Of course it must. It must submit to what it is not in its power to avoid. It had got very low indeed, and even this last purgation will not, we are inclined to think, save it from its final and inevitable collapse.

ANOTHER ATLANTIC CABLE TO BE LAID.—It is said to be the intention of the British government to lay another cable between Ireland and Newfoundland next year, in the event of their being unable to work through the present line.

THE Pebbles in our path weary us and make no footstep more than the rocks, which only require a bold effort to surmount them.

A Runaway Match Extraordinary.

On Wednesday of last week, a certain Doctor Dean, of Mount Sterling accompanied his sister and a Miss Wilson, from Mount Sterling on a trip to this place, and in the afternoon Mayville stage of that day, accompanied Miss Wilson to Mayville. The next morning, after breakfast, the parties took the ferry boat for Aberdeen, and upon the boat reaching the shore the fair famed Squire Shelton entered the boat and administered his usual brief ceremony of marriage. We learn that the gay Doctor is about 31 or 32 years of age, and the bride somewhat beyond 13 years of age, and the owner of an estate, worth about \$10,000, which was the prize he was endeavoring to snatch. The parties returned to Mayville, and the Doctor supposing the knot to be indissolubly tied, retired with his youthful bride to a room, and took some liberties which are not deemed repugnant to fair ones who love their lords, when the young bride broke from his grasp with a scream, dashed down the stairway of the Lee House, and entered the schoolroom at the village attending Sabbath school, and many citizens were absent at the funeral of R. M. Parish, some miles in the country. The fire had made fatal progress before any thing could be done to arrest it. When once on the ground, the citizens did all that was possible to save a portion of the property, and by the most heroic perseverance and real Kentucky determination, succeeded.

The extent of the loss is not yet ascertained, but it is not fully covered by insurance. The worthy Principal lost all his individual property, and the clothing of the pupils was all consumed, except what he had worn to church.

With some modification of the various buildings remaining on the premises, the classes now in attendance can be tolerably accommodated, and the Trustees have determined to resume academic exercises in a few days. The man house will be rebuilt at the earliest possible day. The interruption is somewhat serious, truly, but it will not long last.

Some donations in clothing or money would be thankfully received. John G. Allen, of Lexington, will receive, for the school, anything left with him. If benevolent ladies find it in their hearts to aid their unfortunate sisters in the day of their calamity, they can do so by leaving with Mr. Allen bed coverings, sheets, brown or green calico for bonnets, dresses, &c., green merino or plaid shawls for winter wraps.

I neglected to say that the fire was communicated to the roof. No blame can possibly attach to any one belonging to the school, for the greatest precautions against fire have constantly been observed.

It is with pleasure I add, that no one was injured in the confusion and alarm incident to the unexpected outbreak of a great fire in a small village.

The orphan girls are all well situated with families in the village and neighborhood, where they will remain until arrangements are made for re-opening the school.

Very truly yours,
L. L. PINKERTON.

Douglas' PLAN OF "UNFRIENDLY LEGISLATION" TO BE TRIED IN KANSAS.—Douglas' plan of excluding slavery from a Territory by unfriendly legislation is, it seems, about to be put in practice in Kansas. The Lawrence Herald of Freedom copies with approbation, the Freeport speech of Douglas and adds, exultingly:

"Now compare the above with the Democracy of Buchanan, and what true Democrat will not scoff the pretensions of the latter? The former sought to prevent the 'too much meddling' of Federal officers' with the public elections; the latter holds out inducements to office holders and office seekers to exert a corrupting influence upon the popular elections, and even interferes himself to secure the nomination of obnoxious Representatives in Congressional Districts.—From such Democracy the people pray to be delivered."

How JONES WAS MISTAKEN.—The Washington Post in the Eighty District of New York are talking of running Bennett, of the *Herald*, for Congressman. The President appears to be throwing his influence in Jenny's favor. The nominating Convention, just for fun, we suppose, gave him a plurality of votes, but being unable to agree, adjourned until Wednesday. The *Times* fears they are only making believe, on purpose to tantalize him, and adds:

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The representatives of the Administration Democacy blindly thought the people could be walked over; and Mr. Glancy Jones appeared to be so confident of re-election that he actually said, in this city, he was going to run only to show Mr. Buchanan how easy it was to be elected as an Administration Democrat." He has probably changed his mind by this time. Well, the Administration made "Administration Democracy" the test in Pennsylvania, and the result is that only two of the twelve "Administration Democrats" from that State, who voted for LeCompton, will come back to Congress."

THE CASE OF CAPT. TOWNSEND OF THE SLAVER "ECHO."—A dispatch from Boston informs us that Judge Sprague, of the United States District Court, has decided that the court has no jurisdiction in the case of Capt. Townsend, the slaver, and that he must be remanded for trial to the district where he first landed, which is Key West. The opinion of Judge Sprague, is not final in this matter, but may be overruled by Judge Clifford, and from the latter may go to the full bench at Washington. The probability is, however, that Townsend will be remanded to Florida for trial in which case his admissions to reporters of journals in this city are less likely to be brought before the court, and his conviction for the crime of which he is beyond doubt guilty is highly improbable.—*N. Y. Post.*

THE RESCUED PASSENGERS OF THE STEAMER AUSTRIA.—A meeting of the rescued passengers of the ill fated Austria—forty-two in number, who arrived in New York on Thursday last in the British war steamer Valorous, Capt. Aldham, was held, by invitation, at the office of the Hamburg and New York Steamship Line, 151 Broadway, on Saturday last. Messrs. C. B. Richard, Boas & Co., agents of the line, informed the unfortunate passengers that they had been instructed to present them, in behalf of the company, each a sum of money for the purchase of clothing, and also to furnish all who were destined for the interior with a free ticket to their place of destination, with 50 cents per day to pay their expenses while on the route. Mr. Richard then gave to each of the passengers a sum of money, varying from \$20 to \$30, according to his position and circumstances, taking a receipt therefor. The company also pays the board of all the passengers while they are detained in New York.

CHARACTERISTIC ON BOTH SIDES.—There is no people in the world with whom eloquence is so universal a gift as the Irish. When Leitch Ritchie was traveling in Ireland, he passed a man who was a painful spectacle of pallor, squalor, and raggedness. His heart smote him, and he turned back. "If you are in want," said Ritchie, with some degree of previsibility "why don't you beg?" "Sure, it's begging I am, yer honor!" "You didn't say a word." "Of course not, but see how the skin is speckled through the holes in me trowsers! and the bones cryin' out through me skin! Look at me sunken cheeks, and the famine that's starin' in my eyes! Man, alive! isn't it beginnin' I am with a hundred tongues?"

A sheriff's officer is a man who never leaves another in distress.

COURT OF APPEALS.

WEDNESDAY, Oct. 20, 1858.

CAUSES DECIDED:

Barnett, et al. v. Bennett, et al., Ohio; affirmed.

McFee v. Moseby, Mercer; reversed.

Sutton v. Keefer, et al., Shelby, reversed.

Leavy v. Flournoy, Franklin; affirmed.

ORDERS.

Jefferson v. Hallowell; petition for rehearing overruled.

Young v. Tevis; mandate suspended until the first day of the next term.

Ward v. Pope; leave given appellee to withdraw exhibits.

Adjourned until court in course.

PUBLIC SALE OF A LIVERY STABLE, TOGETHER WITH THE STOCK, STABLE FIXTURES, &c.

On Wednesday, 17th of November, 1858.

I will sell at Public Auction, my

Livery Stable in the City of Frankfort,

And all my Stock of every kind, consisting of eight Buggies, three Carriages one Spring-Wagon, one Four-Horse Wagon, one Brake-Wagon, one Saily, twenty-eight Head of Horses, among them three pairs of Carriage Horses, five or six fine Single-Buggy Horses, four or five Flag-Saddle Horses, and pair of Buggy Mares, also a team of Horses, and a team of Hogs; 12 Hounds Sow, about 100 Sheep and Pigs;

2 SUCKING CALVES.

ONE FAST MARE bred to Membrado Chief, and believed to be the best mare in the state.

And all my Farm Implements, among them 1 acre Self-Raking Reaper, 1 Mower, 1 Harvester with Straw Cutter attached, about 1 H. 1/2 O. Cart; Plow, Harrow, &c.

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GEO. A. ROBERTSON,
DEALER IN

Confectioneries & Groceries,
CORNER ST. CLAIR AND BROADWAY STREETS,
FRANKFORT, KY.

HAS ALWAYS ON HAND THE CHOICEST ARTICLES in his line, which he will sell at the lowest market prices.

Tobacco and Cigars.

A GENERAL ASSORTMENT ALWAYS TO BE FOUND AT GEO. A. ROBERTSON'S.

WHISKY—OLD BOURBON WHISKY by the gallon or bottle, for sale by April 23, 1858. GEO. A. ROBERTSON.

For the Toilet.
COLOGNES, EXTRACTS, PERFUMERY, POMADES, SOAPS, BRUSHES, COMBS, &c., at April 23, 1858. GEO. A. ROBERTSON.

WINE—The best quality of MADEIRA, SHERRY, PORT, ST. JULIAN, CHAMPAGNE, and MALAGA WINES, cheaper than at any other establishment in the city. April 23, 1858. GEO. A. ROBERTSON.

TEAS! TEAS!!
GREEN AND BLACK TEAS IN PACKAGES OR BULK, & A Superior article at April 23, 1858. GEO. A. ROBERTSON'S.

Proclamation by the Governor.
\$250 REWARD.

COMMONWEALTH OF KENTUCKY, Executive Department,

WHEREAS, it has been made known to me that ALBION T. RYON did, on the day of —, 1858, in the county of Clarke, kill and murder Francis McDonald, and has since been at large.

Now, therefore, I, C. S. MOREHEAD, Governor of said Commonwealth, by virtue of the authority vested in me by law, do hereby offer a reward of TWO HUNDRED and Fifty Dollars for the apprehension of said Ryon, and his delivery to the Sheriff of Clarke county, within one year from the date hereof.

IN TESTIMONY WHEREOF, I have hereunto set my hand, and caused the seal of the Commonwealth to be hereunto affixed, at Frankfort, this 2d day of October, A. D. 1858, and in the 67th year of the Commonwealth.

By the Governor: C. S. MOREHEAD, Mason Brown, Secretary of State.

By T. P. A. BIBB, Assistant Secretary.

DESCRIPTION.— Said Ryon is 24 years of age; 6 feet high; hazel eyes; large Roman nose; will weigh 165 or 170 pounds; a little stoop-shouldered when walking; voice low and harsh; light brown hair.

Proclamation by the Governor.
\$300 REWARD.

COMMONWEALTH OF KENTUCKY, Executive Department,

WHEREAS, it has been made known to me that HIRAM ARD did, on the 20th August, 1858, in the county of Lyon, kill and murder ROBERT BIRD, and has since fled from justice.

Now, therefore, I, CHARLES S. MOREHEAD, Governor of the Commonwealth of Kentucky, do hereby offer a reward of THREE HUNDRED DOLLARS for the apprehension of said Hiram Bird, and his delivery to the Sheriff of Lyon county within one year from the date hereof.

IN TESTIMONY WHEREOF, I have hereunto set my hand, and caused the seal of the Commonwealth to be affixed, Done at Frankfort, this 30th day of Augt., A. D. 1858, and in the 67th year of the Commonwealth.

By the Governor: C. S. MOREHEAD, Mason Brown, Secretary of State.

By T. P. A. BIBB, Assistant Secretary.

DESCRIPTION.— Said Bird is about 5 feet 9 inches high; weighs about 140 pounds; rather slender form; somewhat stoop-shouldered; about 20 years old; this villain has a short, dark beard; wears a dark coat, rather dark complexion generally, with black matted curly hair, growing unusually low in the center of his forehead; bad, when he left, a large bowed flint lock rifle gun.

Sep. 1, 1858—3m.

Proclamation by the Governor.
\$200 REWARD.

COMMONWEALTH OF KENTUCKY, Executive Department,

WHEREAS, it has been made known to me that ANDREW H. GLASGOW did, on the 2d day of August, A. D. 1858, kill and murder WM. ECKS, in the county of Logan, and in the state of Kentucky.

Now, therefore, I, CHARLES S. MOREHEAD, Governor of the Commonwealth of Kentucky, do hereby offer a reward of Two Hundred Dollars for the apprehension of said Glasgow, and his delivery to the Sheriff of Logan county within one year from the date hereof.

IN TESTIMONY WHEREOF, I have hereunto set my hand, and caused the seal of the Commonwealth to be affixed. Done at Frankfort, this 16th day of August, A. D. 1858, and in the sixtieth year of the Commonwealth.

By the Governor: C. S. MOREHEAD, Mason Brown, Secretary of State.

By T. P. A. BIBB, Assistant Secretary.

DESCRIPTION.— Said Glasgow is six feet high; dark complexion; an-burn hair; high cheek bones; small gray eyes; thin visage; low forehead; Roman nose; talk-slow and slow, and slouches; in speaking, has a short under jaw; upper teeth protrude; has a very prominent nose, and it requires an effort to get his lips together; he is spare; about 25 years of age, and weighs about 150 pounds.

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